



VETERAN-OWNED SMALL BUSINESS (VOSB) VERIFICATION PROGRAM

GUIDELINE FOR APPLICANTS

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OVERVIEW OF THE VERIFICATION PROCESS

The Verification Process consists of three steps:

- The Veteran applies to have a company verified by entering ownership information into VIP and signing VA Form 0877 electronically in his or her VIP registration. A list of required business and financial documents by business type is posted on the VetBiz.gov Web site. The Vendor Information Pages (VIP) database permits owners to directly upload all documents when registering or updating the profile. Once all the owners have completed the electronic signature, VA verifies the Veteran status of each Veteran owner in VA's Beneficiary Identification Records Locator Subsystem (BIRLS) database. The Veteran status of most applicants is verified on the first query and the application then moves on to Examination. In a few cases, the applicant's Veteran status is not verifiable, and a letter is sent to the applicant explaining how the Veteran can get his BIRLS record corrected.
- Once an applicant's Veteran status is verified, Veteran ownership and control is verified by examining information databases and business and financial documents submitted by the applicant. Some of the examination process is electronically integrated to the VIP registration process, but at this time, examination is mostly a manual procedure.
- In some cases, ownership and control issues remain after the examination is completed. In these instances, a site visit is scheduled with the applicant, in which an Examiner will visit the applicant's place of business to conduct interviews and additional reviews.

It is not easy to become verified, nor is it an entitlement.

Applicants **must** conform to the requirements of 38 CFR Part 74 in order to be verified.

COMPONENTS OF SUCCESS

1. **Organize before applying for verification.** Finalize the business structure and ownership documents before applying to have the company verified.
 - Corporations, Limited Liability Corporations, and Partnerships are typically registered with the state in which they are organized.
 - Depending on their structure, most registered businesses will have agreements that govern how the company is operated, e.g. partnership agreements, stockholder agreements, operating agreements, corporate bylaws, etc.
 - Even Sole Proprietorships that do not need to register with their state might need a business license from their state or local government (a contractor's license for example), and most states require that they register with their county if doing business under any name but their given name (*i.e.* Joe's Garage must register as a "doing business as (dba)");
 - Assemble copies of business and financial documents. Refer to the lists on www.VetBiz.gov for your business type for a complete listing of the required documentation. Redact (black out) all Personally Identifiable Information (PII) to include all Social Security numbers, dates of birth, home address if different from the business address, home phone number, and bank routing number and checking account number.
 - The Veteran should be the highest compensated employee unless there is an acceptable written explanation otherwise submitted by the Veteran as to how taking a lower salary than other employee(s) helps the business (38 CFR 74.4 (g) (3)).
 - If you do not have a particular document that is required, a written explanation as to why it is missing and saved with the name of the missing document must be submitted.
 - If you are applying to have more than one business verified, you must also submit a written explanation that demonstrates that such activities will not have a significant impact on an eligible Veteran owner's ability to manage and control their small business.
 - If you do not work full-time in the business, a written explanation that shows sustained and significant time invested in the business is required. Remember that while not all Veteran owners need to work full-time in the business, the regulation still includes the requirement that an eligible Veteran owner who manages the company must devote full-time to the business during the normal working hours of the firm.

These documents are required before the examination process can begin.

If significant changes in name, structure or ownership occur, you might have to reapply.

2. **Read 38 CFR Part 74 to be sure you are eligible.** Applications that do not conform to the requirements of both Veteran status and ownership and control requirements in 38 CFR Sections 74.3 and 74.4 will be denied.
 - The Veteran has unconditional direct ownership;
 - The Veteran holds the highest officer position and is the highest paid employee unless there is a reasonable explanation submitted by the Veteran as to how taking a lower salary than other employee(s) helps the business;
 - The Veteran manages the company on both a strategic policy and a day-to-day basis;
 - Non-Veterans do not control the company; and
 - The Veteran has the managerial experience of the extent and complexity needed to run the company.
3. **Submit and maintain a complete, accurate, up-to-date registration in VIP and CCR.** Disorganized and inconsistent information will slow down the processing of the application and will increase the amount of information requested from the applicant. You should maintain complete, accurate, up-to-date registrations anyway, since these are your interface with buyers and contracting officers. It is very important to enter the ownership information into VIP correctly when you register: correct names and information for each owner, correct email address for each owner, and ownership percentages must add up to 100%. Then, VIP will send an email to those email addresses. Each owner must click on the link in the email to sign VA Form 0877 electronically. Application processing does not start until all owners, adding up to 100%, have signed the VA Form 0877 and all required documents are received.
4. **Correct Veteran status inaccuracies through the VA Regional Office.** Veteran status is verified using VA's Beneficiary Identification Records Locator Subsystem (BIRLS) database. If BIRLS does not have any record for the applicant's social security number, CVE will send the applicant a letter telling him to contact his VA Regional Office. The application processing is suspended when that notice is sent. There is no other method of restarting the application other than by having the VA Regional Office correct the Veteran's BIRLS record. Once the BIRLS record has been created/corrected, recontact CVE to restart your application.

5. **Respond quickly and completely to any requests for information.** Much of the document examination is performed by VA support contractors. If the Examiner requests additional documents, processing stops until they receive those documents. If the applicant does not respond, VA may deny the application based upon a lack of supporting documentation. Remember, your application will not be processed until all supporting documentation is received.
6. **Get your company verified before applying to have any joint ventures verified.** In general, a joint venture is a formal business relationship between two or more small business concerns to engage in and carry out a single, specific business venture for joint profit. For VA contracts, a joint venture must be in the form of a separate legal entity; in other words, two or more companies form a new business. The new business created by the joint venture (JV) must have a DUNS number and must be separately registered in the Central Contract Registration (CCR). If a JV is applying to be verified as a Veteran-owned joint venture, then the Veteran partner must first be verified. When you are registering your company in VIP do not select "Yes" for joint venture if it is not a separate company with a joint venture agreement. Most project teams are not joint ventures; they are comprised of a Prime Contractor and one or more Subcontractors.
7. **Apply for Renewal after one year.** In accordance with P.L. 109-461 and 38 CFR 74, verification is for one year, and the company must apply for renewal. If the company has been verified based on full document review or site visit, the renewal application will require the Veteran to either state that no changes have occurred with regard to Veteran status, ownership, or control regarding the company, or describe any changes that have occurred related to Veteran status, ownership, or control regarding the company. If full document review (those approved before January 2011) has not been done, you must submit full documentation for a new examination.

COMMON ISSUES THAT SLOW APPLICATIONS DOWN

1. **100% of Owners have not completed the VA Form 0877 electronic signature.** It is important to enter correct information for each owner, including social security numbers of all Veterans, correct email addresses for each owner, and that the ownership percentages add to 100%. Then, each owner will receive an email containing a link to sign VA Form 0877 electronically. Communicate with all the owners to have them complete the eSignature immediately. They should check their spam folder if they have not received this email. Once all the electronic signatures adding to 100% are completed, the application is electronically submitted for processing. If all signatures are not submitted within seven days, you must start over.

2. **The Applicant does not upload all required documents to their VIP Profile and then click [SUBMIT].** Application processing does not start until the Applicant clicks [SUBMIT].
3. **The applicant does not provide complete documentation. (See Suggestion #5 Above)** The examination cannot begin until all of the required documentation is submitted. In some cases, the Examiner requests additional documents and receives a nonresponsive reply, such as:
 - a. The applicant does not want to submit it. In this case, the application does not proceed until the applicant submits the requested document(s). After the deadline in the email request has passed, the application is forwarded for removal from VIP.
 - b. The applicant sends documents that are inconsistent with each other and/or other information. In this case, the Examiner will ask for additional information and explanation. If those are not received within the time requested, the application will be referred to higher-level review and is likely to be denied by VA.
 - c. The applicant provides a response that requires the Examiner to resolve the issues. The applicant must provide their own documents and explanations in order to resolve any issues regarding ownership and control by the Veteran without requiring the Examiner to make any inferences. Any explanations must fully explain the deviation or the reason that the document is not being submitted. The applicant cannot assume that the Examiner will be able to fill in the gaps and resolve ambiguities or omissions in the applicant's favor; it is important for the applicant to provide a complete and factual response.
4. **Non-Veterans appear to control the company. (See Suggestions #1 and #2 Above)** The Examiners review information to determine that the applicant conforms to the requirements in 38 CFR 74.4. In those cases that the Veteran holds the highest officer position, is the highest paid employee, and manages the company on a day-to-day basis, the Examination is likely to proceed quickly. When the management structure deviates significantly, the examination proceeds more slowly, and additional supporting documents will likely be requested. Review all agreements and policy documents to assure that the Applicant controls the Company and the Board of Directors. In many cases, an Examiner is sent to the company's place of business to conduct an onsite examination.
5. **The Veteran is unavailable.** Generally, direct communication with the Veteran is the most productive means of resolving discrepancies or omissions in the record. Moreover, if the Veteran is unavailable, how can the Veteran be managing the company on a day-to-day basis? An eligible Veteran owner will be required to explain how any outside employment does not affect his/her ability to

control the applicant. If the Veteran is a Federal employee, it is unlikely that the company can receive a Federal contract (See FAR 3.6).

6. **The applicant has an unusual ownership or management structure.** Current practice is to conduct an onsite examination of applicants with unusual ownership or management structures. Joint or co-management with non-Veterans will result in a finding of a lack of control and a denial. The Veteran must have full authority to control the concern, or adequately weighted voting rights to have final decision-making authority.
7. **The applicant has affiliation issues.** Businesses are affiliates of each other if, directly or indirectly, one has the power to control the other. Based upon 38 CFR Parts 74 and 74.5, affiliation issues must be examined in more detail to assure that the applicant is not unduly dependent on other entities to the extent that those entities have the potential to control the applicant. Current practice is to conduct an onsite examination of applicants who appear to have affiliation issues.

BACKGROUND

Public Law (P.L.) 109-461 created a new contracting program within the Department of Veterans Affairs for Veteran-owned small businesses and expanded the service-disabled Veteran contracting program for VA procurements. The Public Law was implemented in two regulations published in the Federal Register:

- **48 CFR Parts 802, 804, 808, 809, 810, 813, 815, 817, 819, 828, and 852 Supporting Veteran-owned and service-disabled Veteran-owned small businesses** were amended on December 8, 2009 to implement changes to the VA Acquisition Regulation. This regulation defines the acquisition rules for the program within VA.
- **38 CFR Part 74 VA Veteran-Owned Small Business Verification Guidelines** was published on February 8, 2010, and clarified on January 19, 2011. This regulation defines the requirements for verification as a Veteran-owned small business or a service-disabled Veteran-owned small business.

Experience since the Verification Program started in mid-2008 shows that some applicants do not fully understand how to submit a complete application that demonstrates that their company complies with the regulatory definition of a Veteran-owned small business (VOSB) or a service-disabled Veteran-owned small business (SDVOSB).

Further complicating the submission process is the implementation of P.L. 111-275, section 104, the Veterans Small Business Verification Act (Verification Act). This law requires that in order to appear in the Vendor Information Pages (VIP) database, a VOSB (or SDVOSB) must be verified. Additionally, at the time of application, Veterans

must submit to VA copies of all of the business documents that 38 CFR Part 74 previously required only to be kept on file at the primary place of business.

The core requirements for a company to become verified are:

- The Veteran owner(s) have direct, unconditional ownership of at least 51% of the company (38 CFR 74.3) and have full decision making authority (38 CFR 74.4 (g));
- The Veteran manages the company on both a strategic policy and a day-to-day basis (38 CFR 74.4);
- The Veteran holds the highest officer position (38 CFR 74.4(c)(2));
- The Veteran should be the highest compensated employee unless there is a logical explanation otherwise, submitted by the Veteran as to how taking a lower salary than other employee(s) helps the business (38 CFR 74.4 (g) (3)); and
- The Veteran has the managerial experience of the extent and complexity needed to manage the company.

The Applicant bears the burden of proof of adequately establishing its claimed status.

The January 19, 2011, Federal Register Notice clarified that a Veteran is not necessarily limited to having one company verified, and Veteran owners do not necessarily have to work 40 or more hours per week at each verified company. There is also no specific requirement for the Veteran to live within a specific number of miles of the company headquarters. The January 19 clarification, however, did not change the requirement for the company to comply with 38 CFR Part 74 in order to be verified, which still includes the requirement that an eligible owner who manages the company must devote full-time to the business during the normal working hours of the firm.

This Guideline is intended to assist Applicants to comply with the regulatory requirements in 38 CFR Part 74 in order to apply for verification.

Whenever this Guideline appears inconsistent with 38 CFR Part 74 *VA Veteran-Owned Small Business Verification Guidelines*, the language in 38 CFR 74 applies.